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**Administration Seeks To Maintain Essential Fish Habitat While Proposing To
Withdraw And Revisit Its Critical Habitat Designations**

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service today announced that it is seeking judicial approval of a consent decree withdrawing its current critical habitat designations for 19 salmon and steelhead populations. The move is in response to litigation challenging the process by which its critical habitat designations were established. NOAA Fisheries will undertake a new, more thorough analysis consistent with a recent decision of the United States 10th Circuit Court of Appeals and will proceed to re-issue critical habitat designations after that analysis is completed. NOAA is an Agency of the U.S. Department of Commerce.

Under the provisions of the Endangered Species Act, NOAA Fisheries is required to analyze the economic impacts on affected businesses, communities and individuals when designating critical habitat for salmon and steelhead trout populations.

The 10th Circuit Court of Appeals recently held that the analysis of economic impacts for such designations must be much more specific than the current approach. While that case, *New Mexico Cattle Growers Association v. U.S. Fish and Wildlife Service*, involved a different species – the Southwestern willow flycatcher – the type of analysis reviewed by the court was similar to that used by NOAA Fisheries in its salmon and steelhead critical habitat designations.

NOAA Fisheries expects this action will not significantly affect the protection of these 19 populations of chinook, chum and sockeye salmon nor steelhead populations whose ESA status remains unchanged. The authorities of the Endangered Species Act (sections 4, 7, 9, and 10) that NOAA primarily relies on for its enforcement and protective actions remain in effect.

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Salmon habitat also will remain protected by the essential fish habitat provisions of the Magnuson-Stevens Act. Federal managers believe that properly functioning habitat is an essential part of recovering listed species. While NOAA Fisheries re-evaluates critical habitat designations, the agency also is actively developing on recovery plans for all Pacific Coast salmon and steelhead populations.

The essential fish habitat provisions of the Magnuson-Stevens Act were developed to minimize both fishing and non-fishing effects on essential fish habitat. The provisions were developed to prevent future habitat problems so that salmon, steelhead and other fish and shellfish stocks that depend on healthy habitats avoid further declines.

On Feb. 16, 2000, NOAA Fisheries designated critical habitat for 19 Evolutionarily Significant Units (ESUs) of chinook, chum and sockeye salmon as well as steelhead trout in Washington, Oregon, Idaho and California. On Sept. 27, 2000, NOAA Fisheries approved Amendment 14 to the Pacific Coast Salmon Fishery Management Plan designating marine and freshwater essential fish habitat for Pacific Salmon.

Shortly after these designations, the National Association of Homebuilders in association with a group of Washington, Idaho and Oregon counties filed suit challenging NOAA Fisheries' designation of Essential Fish Habitat for Pacific Coast Salmon and critical habitat designations for the 19 ESUs of Pacific salmon and steelhead. Additionally the Association of California Water Agencies (ACWA) filed suit against NOAA Fisheries challenging the critical habitat designations for 19 ESUs of Pacific salmon and steelhead. These lawsuits allege, among other things, that NOAA Fisheries failed to adequately evaluate the economic impacts associated with the designation of critical habitat.

NOAA Fisheries is dedicated to protecting and preserving our nation's living marine resources through scientific research, management, enforcement and the conservation of marine mammals and other protected marine species and their habitat. To learn more about NOAA Fisheries, please visit <http://www.nmfs.noaa.gov>